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Thank you for the opportunity to present at this hearing.

Four years ago, I had a life not, perhaps, unlike yours. A marriage, a perfect son and a difficult daughter. A job. I knew and cared little about the issue of Juvenile Life without Parole nor the bills of the sort we are discussing here. Then, on April 24, 2005, everything changed.

That was the beginning of MY education on the issues we are discussing.

My son is Chris Dankovich, #595904. He currently is incarcerated at the Thumb Correctional Facility in Lapeer . He has been incarcerated since age 15. He is currently 19. He does NOT have life without parole. But part of the reason he has the lengthy sentence he has is due to the fear of life without parole for juveniles.

My son killed his mother. He went from a normal seeming, nearly straight A student who had what he told his grandfather "the happiest day of my life" on a Friday to becoming increasingly disturbed, running away from my home, attempting suicide, and killing his mother in a period of 72 (sleepless) hours. His report of the forensics center noted none of this and he was found competent to stand trial and charged as an adult "due to the nature of his crime".

Though clearly in the mind of several psychologists, his attorney and his family he was NOT himself but was mentally ill, he refused to stand trial . He attempted to kill himself again while awaiting trial. Because he likely would have eventually been successful and because he felt punishment was appropriate and without my agreement or that of his attorney, Chris opted for a sentencing agreement rather than risk life in prison. He is currently serving out that agreement of 25-38 years.

In these years, I have spent at least 2,000 hours and probably closer to 3,000 hours learning about these bills. As you are aware, these bills have essentially been presented before. So, I have made it my task to learn all I could about how, in Michigan, a child is an adult at 15 when he cannot drive, vote, smoke, nor engage in any legal transaction. How, in spite of literally stacks of studies on the brain from PhD's all over the world, insurance companies, brain studies, Children's Rights Treaties, Human Rights Watch, Prison Wardens, the MDOC director, corrections officers, Senators, perhaps the US Supreme Court (which has chosen to hear arguments on this issue), many families of victims who consider this unjust, parole officers, Forensic psychologists including one of

the founders of the Michigan Forensic center, child psychiatrists, and anyone with a shred of understanding of adolescent function... having children or at least remembering what it was like to be one... how anyone could charge a child as an adult automatically OR believe an adolescent isn't capable of change. Does not all common sense from Biblical times forward in all cultures reflect this in story, myth, literature, common sense and educational policy? Why then do we educate youth and assume our elderly brains are less capable of change?

In the last 4 years, I have made it my business to learn all I could about what is going on regarding the laws regarding the incarceration of children for both violent and non violent crimes. And, frankly, I find it impossible... as does all of the civilized world... to understand how any country could sentence a child to life with no chance of parole. These bills need to be enacted to stop the only country in the world from incarcerating its youth without a parole REVIEW. These bills DO NOT AUTOMATICALLY LET ANYONE OUT BUT SIMPLY PROVIDE A REVIEW FOR A PAROLE BOARD TO LOOK AT CHILDREN.

I have visited my son at the facility every time I could...over 210 times. When did you last tour a prison, talk to the guards, even talk with your party's policy makers. I have. I talk with guards, prisoners, victims families, psychiatrists, psychologists, . Do you know how long a visit may last? How much money you can bring for snacks... or even if they are allowed? What you can wear or bring into a facility? Have you spent 2,000 hours PERSONALLY on this? Have you read the research on the effectiveness of policy or the logic of it? Or do you just not want to be seen as "soft on crime?"

Do you believe clemency is possible? I did... but even former Governor Milliken does not believe it likely. He stated, as did several articles including the Wall Street Journal , that clemency is "Politicized and unlikely to occur. It is not used any longer to right a wrong inflicted by the justice system">" Clemency is not pragmatic, likely to redress a wrong nor cost effectively probable to redress wrongs or allow deserving inmates to be freed. Perhaps someone believes this but data does NOT support this argument.

Some families.. You have Tammi Rae Smith's letter and have heard from Dave Daverman.. As well as my son's maternal side.. Who don't support either the charging of juveniles as adults nor the life with out parole sentence for children. There ARE families of victims who suport these bills.

Human Rights Watch wrote to support the bills in 2008.

The preponderance of evidence supports these bills regarding adolescent brain development.

Many corrections officers.. For I have talked with them.. Support this legislation. What does a child who cannot ever hope to get out have to lose? How can you motivate or

punish them without the threat and cost and ineffective policy of Solitary Confinement?

The Human Rights Treaty.. Which the US alone did not sign (Somalia with it's ineffective and corrupt government as well as pirate did not sign) specifically forbids incarceration of children without a review for parole.

Nobody will be let out automatically due to these bills. Are you so uncivilized to not agree with the Human Rights Watch, Forensic Scientists, Child Psychiatrists and psychologists, studies on Brain Imaging and MRI studies, some families of victims, so you MUST allow everyone to NOT EVEN BE LOOKED AT AGAIN.. FOR 50 TO 80 YEARS??

We have a group which could save money... they cost at least the \$30,000. Per prisoner per year that is average in Michigan. They have many decades of savings to the system if they qualify for parole.. And not all will. But, as Everett Dirksen reminded us , a million dollars here and a million there and pretty soon we are talking about (saving) a lot of money. Not to mention lives.

I love my son. As you do your children. I love children. They are not adults. They are the most capable of change. Nobody gets out because of this legislation. But they do get another look to see if they have changed. By professionals... parole board professionals. Clemency doesn't address this. Soon the Supreme Court will. Shouldn't we enact legislation by choice rather than be squeezed to make a choice , perhaps, by the Federal System??? Should we not listen to some of the families of victims.. Not to mention families of inmates who DO believe their particular inmate has changed? Some people DO change.. Not all, but some. Should not those be given a chance to go before a parole board. If for no other reason... it might even save us some money.

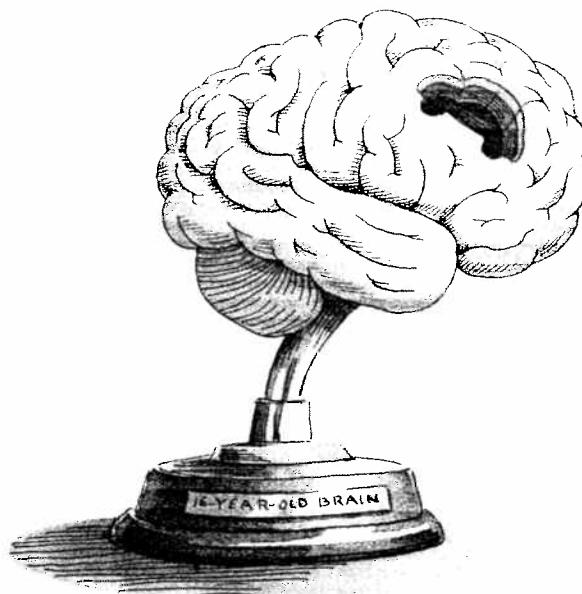
And it is the right thing to do. The entire rest of the world, including the countries which we often do not consider civilized and to which we preach VIOLATION OF HUMAN RIGHTS ISSUES do not approach in total a fraction of the number incarcerated in Michigan alone (as children with life). And incarcerating children as adults for life certainly has no correlation with deterrence of crime. And it costs more than \$1 million per child at TODAY'S rates for a child to serve life... over \$300 million at current incarceration inmate rates.

Certainly not all of those incarcerated should be let out... but is it possible we are wrong and the rest of the world may be right regarding children?? So, you can change this. Please allow this to come to the floor for a vote and please vote to pass this legislation.

Why do most 16-year-olds drive like they're *missing a part of their brain?*



BECAUSE THEY ARE.



EVEN BRIGHT, MATURE TEENAGERS SOMETIMES DO THINGS THAT ARE "STUPID."

But when that happens, it's not really their fault. It's because their brain hasn't finished developing. The underdeveloped area is called the dorsal lateral prefrontal cortex. It plays a critical role in decision making, problem solving and understanding future consequences of today's actions. Problem is, it won't be fully mature until they're into their 20s.

It's one reason 16-year-old drivers have crash rates three times higher than 17-year-olds and five times higher than 18-year-olds. **Car crashes injure about 300,000 teens a year. And kill nearly 6,000.** Is there a way for teens to get their driving experience more safely—giving their brains time to mature as completely as their bodies? Allstate thinks so.

Graduated Driver Licensing (GDL) laws are one approach that's been proven effective at reducing teen

crashes. These laws restrict the more dangerous kinds of driving teens do, such as nighttime driving and driving with teen passengers. Since North Carolina implemented one of the most comprehensive GDL laws in the country, it has seen a 25% decline in crashes involving 16-year-olds.

To find out what the GDL laws are in your state, visit Allstate.com/teen. Help enforce them—and if they aren't strong enough, ask your legislator to strengthen them.

Let's help our teenagers not miss out on tomorrow just because they have something missing today.

It's time to make the world a safer place to drive.
THAT'S ALLSTATE'S STAND



Allstate
You're in good hands.

Auto
Home
Life
Retirement

Dear Congressman,

My Dad told me that he was going to meet with you soon, so I thought that there were some things that you should know. These are things which many people don't know about prisons, but are things which affect the lives of over 50,000 people, many as young as 14 years old, and their families.


I am currently incarcerated with over 400 inmates, all under 21, many who are 16 years old or younger, with a few who are as young as 14 years old. One 14 year old that I know has a minimum sentence of 28 years, and many other very young inmates I know will die in prison with a life sentence. With "good time" having been taken away in the '90's, all of these children (though sentenced as adults, many are still children) will currently have to serve at least their minimum sentence. With the current trend of the parole board, most will not even be released once they complete their minimum sentence, even with good behavior. One inmate I know is in here for having consensual sex with his 16 year old girlfriend when he was 17, they are still together and plan on getting married when he gets out, he's had perfect behavior in here, and the parole board still denied him parole. Him and many others who have served their time are consistently being denied parole, but they are still consider lucky in here for having a chance to see the parole board.

Another big problem in prisons is the lack of rehabilitation programming. Over 95% of every inmate in prison will be released, because of lack of programs, many will not have learned one single skill that will change them when released. The few rehabilitation programs there are have often over a year waiting list, and are overcrowded and understaffed. As the corrections budget decreases, always the first things cut are the programs for rehabilitation. The Michigan Department of Corrections is not doing its job implied in its name, it is not correcting people, it is simply warehousing them. A very sad consequence of this has been in the past 4 months, as conditions in here

have deteriorated and important rehabilitation and mental health jobs have been cut, the youthful side of this prison saw its first successful suicide, a 16 year old with only a few years. I must ask, where was the correction, where was the rehabilitation and treatment for this human being who apparently saw this as his best way out of this place?

One last problem that I must bring up is financial. A public act recently passed implemented a 10% surcharge on items like our food that we buy. The MDC is also adding on an additional 10% surcharge, totaling 20% on the things we purchase. A big part of this problem is that everything we buy is already overpriced compared to the same items in the outside world. Add on the fact that the average prisoner with a job in here earns \$1.14 per day, it takes almost 2 days wages to buy a soda and a snickers bar.

I would like to thank you for taking the time to listen to my dad and for reading through this, please take these things into consideration before your next vote on correctional issues.

Thank You,


January 27, 2006

Prosecutor Lisa Cortleib, Dan Cofman
and Judges envalued.

Our most precious daughter
Diane Michele was murdered
April 24, 2005. She was a most
"loving daughter" and special joy.
She was a counsellor, teacher and
minister to so many; and loved by
all she met.

With the love and prayers
of family, many friends and
many churches: Our most
"Amazing God", has helped us
forgive our Christopher. He
was a quiet, very loving child
and grandson.

So that other young boys
are not seduced into this
militia - has this been taken
off the computers? We are of
the opinion they are as guilty

- 2 -

as our Christopher. At 15
young boys are so easily brain
washed.

I am speaking for both
sets of grandparents
John + Margaret Dankovich
and us
Nick + Elaine Palmer
asking for a 2nd degree charge
and lowering his years in
prison, as much as possible.

We respect your judgement.
Our love and prayers are
with you.

Grandmother
Elaine Palmer



National Juvenile Justice Network

Using Adolescent Brain Research to Inform Policy: A Guide for Juvenile Justice Advocates

Introduction

Adolescence has generally been recognized as a time of growth and change. In recent years, brain imagery such as functional Magnetic Resonance Imaging (fMRI) has enabled researchers to look at the actual physical changes that take place in the brain and see that during adolescence several areas of the brain are still developing. Newer studies look at brain functioning – which parts of the brain are involved in particular kinds of thinking and activities. This also has revealed differences in the ways that adolescents and adults use their brains. Much has been made of this research in policy arenas; however, its use raises questions about respect for our youth allies, implications for alternate policy agendas, and disproportionate minority contact.

This paper will briefly explore some of these issues and encourage advocates to pause and think about how they use this research to inform their reform efforts.

What Does the Research Say?

- Brain development takes place in stages and is not fully complete in adolescence. The frontal lobe, especially the prefrontal cortex, is one of the last parts of the brain to fully mature, and undergoes dramatic development during the teen years. It is this “executive” part of the brain that regulates decision making, planning, judgment, expression of emotions, and impulse control. This region of the brain may not be fully mature until the mid 20s.ⁱ
- The limbic system, which helps to process and manage emotion, is also developing during adolescence. Despite the fact that the limbic system is not yet fully mature, it stands in for the underdeveloped frontal lobe to process emotions. This causes adolescents to experience more mood swings and impulsive behavior than adults.ⁱⁱ
- Levels of dopamine production shift during adolescence. Dopamine is a chemical produced by the brain that helps link actions to sensations of pleasure; its redistribution can raise the threshold needed for stimulation that leads to feelings of pleasure. As a result, activities that once were exciting to youth may not be so as they enter adolescence, and thus they may seek excitement through increasingly risky behavior.ⁱⁱⁱ
- During adolescence, gray matter in the brain begins to thin as synapses (links between neurons that transmit and receive information) undergo a process of “pruning.” Unused synapses are pruned away, while those that are used frequently become stronger. Additionally, neurons are strengthened through “myelination,” which improves the connectivity between neurons and thereby speeds up communication between cells. Pruning and myelination demonstrate that changes to the adolescent brain can have long-term consequences: parts of the brain that are used frequently will be strengthened, while other parts that are used less frequently will weaken and die off.^{iv}



- When adolescents make choices involving risk, they do not engage the higher-thinking, decision-and-reward areas of the brain as much as adults. This can lead adolescents to actually overstate rewards without fully evaluating the long-term consequences or risks involved in a situation.^v

How Does This Affect Young People's Behavior?

- Because of the changes in the emotional and decision-making centers of the brain, adolescents behave differently in circumstances of “hot cognition” (situations of high emotional context) and “cold cognition” (situations of lower emotional context). For example, a teen surrounded by friends in a loud, stimulating environment may make a more emotionally-based decision versus a teen in a calm, quiet environment with her parents, who may make a more intellectual, consequence-based decision.
- The effect of hot cognition is increased by other changes taking place. Hormonal changes related to developing sexual maturity and psycho-social changes manifest themselves in adolescents' emphasis on the importance of peer groups, need for autonomy from parents and guardians, and development of self identity.
- Youth's decision making is heavily influenced by context. Youth's intellectual capabilities can be as developed as adults; they are capable of making reasoned decisions and often will make better decisions than adults. However, when youth are placed in environments where they may be susceptible to peer pressure, where there is pressure to make a decision quickly, where there is an opportunity for risk-seeking behavior, and/or where there is high emotionality, they have increased potential for their judgment to be driven by emotion rather than by reason. This may explain why youth are often arrested for violent acts in groups.
- Youth may be more prone to making risky choices because of the shifting levels of dopamine in their brains. This can be exacerbated in a situation involving peer influence.
- Youth who are victims of emotional or physical trauma may suffer from a delay in brain maturation because of the disruption in brain development.^{vi}

Is It Too Early to Use this Research?

Many researchers argue that while we have discovered much in recent years, there is much more that we do not yet know. And thus, it is just too early to start using this research to inform policy.

However, juvenile justice advocates have found that this research is nothing short of compelling. It opens the doors to legislators' offices who never before thought about progressive juvenile justice reform. It gives advocates and lawyers working on behalf of juveniles scientific proof for their claims that children are different from adults, are capable of change, and need support and opportunities for healthy development – the principles that initially led to the establishment of the juvenile court and juvenile justice system. And, perhaps even more importantly, brain development research provides heretofore reluctant legislators from “tough-on-crime” districts a basis for a shift from punishment of juveniles to rehabilitation.

The use of brain development research to advocate for juveniles has already proven to be effective. In *Roper v. Simmons*^{vii} the United State Supreme Court cited the significant differences in responsibility and susceptibility to outside pressures between adults and youth as a factor in its reasoning that it is unconstitutional for juveniles to receive the death penalty.

Due to its effectiveness, advocates will continue to use brain development research to inform and influence



juvenile justice policy reform. But what are the implications of using this research? How can we use this research while still being respectful of our young allies? And how might this research be used for other policy agendas?

How Can We Respectfully Frame this Research?

Sometimes the language used to talk about these new findings makes it sound as though young people are not intelligent, incapable of making good decisions, inevitably led by peer pressure to do risky things, and lacking the competence to contribute usefully to the organizations and communities in which they are involved.

Are there better ways to express the concepts the researchers present, which both respect the capabilities of youth and make the case for age-appropriate treatment that recognizes differences between adolescents and adults?

The concepts of opportunity, investment and education provide a means to frame and use this research respectfully and effectively.

Opportunity

- Adolescence is a time of opportunity to help youth become responsible adults and to lay a foundation for youth that will help them make informed decisions.
- The developing adolescent brain means that youths' personalities and behaviors are not fixed or stagnant; therefore youth are highly amenable to treatment and rehabilitation.

Investment

- As in early childhood, adolescence is a time when important growth and development take place. Just as we now understand the importance of investing in youth from zero to five, we must also invest in them during the teenage years. We must provide teenagers with the right environment and tools to allow and encourage them to reach their full potential.
- Our duty as a society is to enable the responsible development of young people, especially during a time when their brains undergo dramatic growth and change.
- An investment in the creation of environments that allow and encourage youth to make decisions in a context of cold cognition, with the guidance of caring adults, will yield a safer, healthier community for all.
- The best investment is to offer youth who make mistakes guidance and rehabilitation. All adolescents make mistakes, and the vast majority of them learn from these mistakes and grow into responsible adults.

Education

- Youth will likely be in a better position to resist some of the triggers that may drive them to make unhealthy decisions if they are educated about their own development, and that of their peers, and how it can impact their behavior.
- The guidance of supportive adults can help youth to use their positive assets to benefit the community.



- When adults understand more about the brain development that occurs during adolescence, they may interact more effectively with youth and can provide youth with better services.

How Does Brain Research Relate to Positive Youth Development?

Related to the concepts of opportunity, investment and education is the principle of positive youth development, which is supported by the findings of brain research. Positive youth development emphasizes youths' strengths, connects youth with caring adults, empowers youth to assume leadership roles, promotes positive relationships with peers, challenges youth in ways that build competence, and provides opportunities for youth to learn healthy behaviors. This approach to youth slows down the decision-making process and helps youth make decisions in atmospheres of cold, rather than hot, cognition. It also surrounds youth with peers and adults that will positively influence their decisions, rather than negatively pressure them. Lastly, positive youth development can help to ensure that synaptic pruning occurs in a healthy manner. Positive relationships with peers and adults, engagement in community and cultural activities, academic enrichment, opportunities for leadership, and individual empowerment will strengthen important synapses, and help to ensure success in these areas as youth mature.

Examples of successful programs that utilize a positive youth development approach are those that build youth academic, vocational and job application/training skills; help youth become community advocates and activists; and take positive inventories of the assets youth have in their identity, expanding skill set and community.

Caution: Brain Development Research Can Be Broadly Applied

When we use brain development research to further juvenile justice reform, we should be aware of and thinking about how others may interpret these findings, both in the juvenile justice arena and in other youth-related policy work. A fundamental tension in the interpretation of this research lies between a positive view of the developing potential in youth and a more negative impulse to contain young people and their sometimes impulsive decision-making processes.

In the juvenile justice field, we see this tension most vividly in policy decisions regarding rehabilitation and community supervision. Advocates argue that the fact that teens' brains are going through a phenomenal stage of development mandates us to seize the moment when they come into conflict with the law to rehabilitate them and help them grow into responsible citizens. However, others maintain that teens' susceptibility to peer pressure and potentially rash decision-making make them high public safety risks and thus bad candidates for community supervision. This argument, though, rather than undermining the push for rehabilitation in the community, underscores the need for safe environments for youth in the community where they have the opportunity to make reasoned decisions in an atmosphere of cold cognition while surrounded by caring adults.

In the child welfare arena, brain research may negatively affect how people view and set policy with regard to teen parents. However, the research specifically shows that adolescents are at a stage where tremendous learning can occur and responsibility can develop and flourish, as synapses are pruned and strengthened through various experiences. And again, this point emphasizes the necessity of providing teen parents with ready access to environments of cold cognition in their communities that can help them make better decisions with the guidance of adults.

There is some concern that this research may lead to a campaign to push back the national age of



enfranchisement. First, it is important to note that situations in which enfranchisement is exercised are most often situations of cold cognition. In such situations, youth are able to make rational, reasoned decisions as well as, or even better than, adults. Second, this issue could potentially be helpful to juvenile justice advocates. As society becomes more cautionary about investing youth with very serious, adult decision-making power, so should it become more cautionary about treating youth who have committed crimes just as it treats their adult counterparts. Youth must be treated as youth, regardless of the issue. This treatment must involve an understanding of the growth potential in youth, their capacity for learning and changing, and their need for positive supports in all aspects of their lives.

It is also important to emphasize here that brain development is not the only factor that does or should influence public policy. The myriad of different values that influence various issues facing society may very well lead to different age cutoffs for varying privileges and responsibilities.^{viii} The key is to strike a balance between science and other societal values, such as opportunities for youth, ethical treatment of all individuals, education, safety, and investment in the future.

The examples above note that it is important to be aware of the varying agendas that may be supported by adolescent brain research and to develop a response to arguments that can interfere with the work of juvenile justice advocacy organizations. Responses invariably return to the need for increased programs that are designed around the principles of positive youth development. The vast majority of youth make good decisions most of the time, especially in environments of cold cognition. It is the job of policy makers and community leaders to provide all youth with such environments, thereby increasing their opportunities to succeed. Additionally, it is important to recognize that most youth learn from their mistakes and will simply “grow out” of risky behavior. Advocacy organizations must emphasize the tremendous potential of young people and their need for education, autonomy, guidance, nurturing, and responsibility at all stages of the juvenile justice process.

Is Brain Research Race-Neutral?

There is some concern that the findings of brain development research could be extrapolated to youth of color, and in turn cloud the issue of disparate minority contact (DMC). A biological determinist might use brain research to argue that the fact that our detention facilities are filled with youth of color means that their brains are more emotionally driven than those of white youth. In fact, much of the brain imaging work that has been done used white middle-class youth as its subjects. This, then, negates the argument that the research is more applicable to youth of color, and highlights the need for more race-specific and race-neutral brain research. Additionally, studies of DMC show that the fact that more youth of color are caught up in the justice system is actually a result of police responses in urban areas (which typically have higher populations of people of color) and racially biased decision-making at key points of contact within the justice system.^{ix}

Conclusion

This paper is by no means an exhaustive look at brain development research and its implications on youth. Our goal is to highlight the primary areas of overlap between the research and the field of juvenile justice, and to help advocates better equip themselves to use the research sensibly and effectively. We also find it to be of utmost importance that we are respectful of our youth partners and allies, and are continually mindful of their role in our work and the tremendous stake they have in any effort toward juvenile justice reform.



For Further Reading

- “Rethinking the Juvenile in Juvenile Justice: Implications of Adolescent Brain Development on the Juvenile Justice System,” Wisconsin Council on Children and Families, March 2006.
- *Adolescent Brain Development: Vulnerabilities and Opportunities*, edited by Ronald E. Dahl and Linda Patia Spear, Annals of the New York Academy of Sciences, Vol. 1021, 2004.
- “Don’t Wait Up – Issues in Juvenile Justice,” Charisa A. Smith, 28 New Jersey Family Lawyer 144, April 2008.
- “What are the Implications of Adolescent Brain Development for Juvenile Justice?,” Coalition for Juvenile Justice, 2006.
- “Less Guilty by Reason of Adolescence,” MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, Issue Brief 3, 2006.
- “The Relevance of Brain Research to Juvenile Defense,” Robert E. Shepherd, Jr., 19 Crim. Just. 51, Winter 2005.

ⁱ See, e.g. Jay N. Giedd et al., “Brain Development During Childhood and Adolescence: A Longitudinal MRI Study,” 2 Nature Neuroscience 861 (1999); Jay N. Giedd, “Structural Magnetic Resonance Imaging of the Adolescent Brain,” *Adolescent Brain Development: Vulnerabilities and Opportunities*, edited by Ronald E. Dahl and Linda Patia Spear, Annals of the New York Academy of Sciences, Vol. 1021, 2004; Nitin Gogtay et al., “Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood,” 101 Proceedings of the National Academy of Science 8174 (2004); Paul Thompson, “Time-Lapse Imaging Tracks Brain Maturation from Ages 5 to 20,” National Institute of Mental Health and the University of California, Los Angeles, May 2004.

ⁱⁱ Rebecca L. McNamee, “An Overview of the Science of Brain Development,” University of Pittsburgh, May 2006.

ⁱⁱⁱ Linda Patia Spear, “Neurodevelopment During Adolescence,” *Neurodevelopmental Mechanisms in Psychopathology*, Cambridge University Press, Nov. 2003.

^{iv} Elizabeth R. Sowell et al., “Mapping Continued Brain Growth and Gray Matter Density Reduction in Dorsal Frontal Cortex: Inverse Relationships During Postadolescent Brain Maturation,” 21 Journal Neuroscience 8819 (2001).

^v Neir Eshel et al., “Neural Substrates of Choice Selection in Adults and Adolescents,” *Neuropsychologia*, Volume 45, Number 6 (2007).

^{vi} Rebecca L. McNamee, *supra*, note 2.

^{vii} 543 U.S. 551, 15 (2005).

^{viii} Charisa A. Smith, “Don’t Wait Up – Issues in Juvenile Justice,” 28 NJFL 144, 148, April 2008.

^{ix} See, e.g. National Council on Crime and Delinquency, “And Justice for Some: Differential Treatment of Youth of Color in the Justice System,” January 2007.



Cruel and Unusual Punishment: The Juvenile Death Penalty **Adolescence, Brain Development and Legal Culpability**

"[They] frequently know the difference between right and wrong and are competent to stand trial. Because of their impairments, however, by definition they have diminished capacities to understand and process mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others.... Their deficiencies do not warrant an exemption from criminal sanctions, but they do diminish their personal culpability."

Atkins v. Virginia, 536 U.S. 304, 318,
122 S.Ct. 2242, 2250 (2002)

In 2002, the U.S. Supreme Court banned the execution of mentally retarded persons. This decision, *Atkins v. Virginia*, cited the underdeveloped mental capacities of those with mental retardation as a major factor behind the Justices' decision.

Adolescence is a transitional period during which a child is becoming, but is not yet, an adult. An adolescent is at a crossroads of changes where emotions, hormones, judgment, identity and the physical body are so in flux that parents and even experts struggle to fully understand.

As a society, we recognize the limitations of adolescents and, therefore, restrict their privileges to vote, serve on a jury, consume alcohol, marry, enter into contracts, and even watch movies with mature content. Each year, the United States spends billions of dollars to promote drug use prevention and sex education to protect youth at this vulnerable stage of life. When it comes to the death penalty, however, we treat them as fully functioning adults.

The Basics of the Human Brain

The human brain has been called the most complex three-pound mass in the known universe. This is a well deserved reputation, for this organ contains billions of connections among its parts and governs countless actions, involuntary and voluntary, physical, mental and emotional.

The largest part of the brain is the *frontal lobe*. A small area of the frontal lobe located behind the forehead, called the *prefrontal cortex*, controls the brain's most advanced functions. This

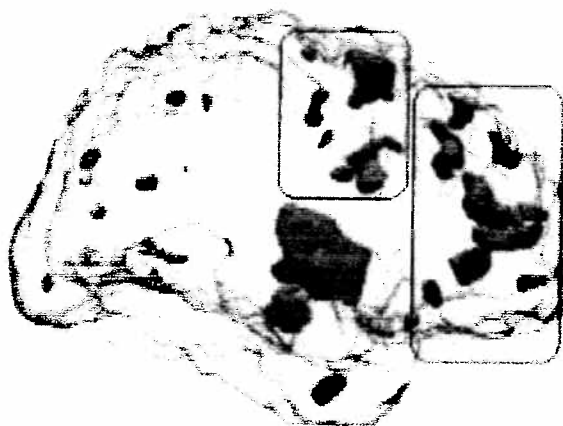
part, often referred to as the "CEO" of the body, provides humans with advanced cognition. It allows us to prioritize thoughts, imagine, think in the abstract, anticipate consequences, plan, and control impulses.

Along with everything else in the body, the brain changes significantly during adolescence. In the last five years, scientists, using new technologies, have discovered that adolescent brains are far less developed than previously believed.

New Technology, New Discoveries

Scientists are now utilizing advances in magnetic resonance imaging (MRI) to create and study three-dimensional images of the brain without the use of radiation (as in an x-ray). This breakthrough allows scientists to safely scan children over many years, tracking the development of their brains.¹

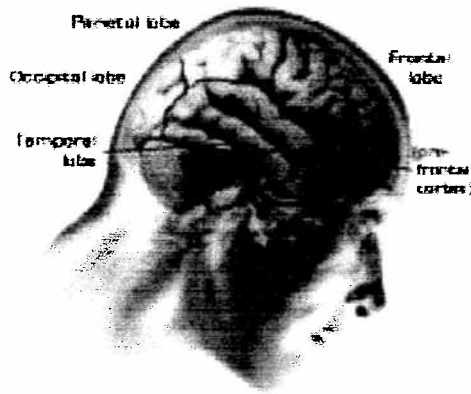
Researchers at Harvard Medical School, the National Institute of Mental Health, UCLA, and others, are collaborating to "map" the development of the brain from childhood to adulthood and examine its implications.



A three dimensional "map" showing portions of gray matter "pruned" from the brain between adolescence and adulthood. The dark portions in the two boxes indicate sections that will be discarded from the **frontal lobe**. The box on the far right indicates the **prefrontal cortex**, a subsection of the frontal lobe that controls judgment.

Image adapted from *Nature Neuroscience*.

Lobes of the Brain.



©2002 Hybrid Medical Animation

The scientists, to their surprise, discovered that the teenage brain undergoes an intense overproduction of *gray matter* (the brain tissue that does the “thinking”). Then a period of “pruning” takes over, during which the brain discards gray matter at a rapid rate.² This process is similar to pruning a tree: cutting back branches stimulates health and growth.

In the brain, pruning is accompanied by *myelination*, a process in which *white matter* develops. White matter is fatty tissue that serves as insulation for the brain’s circuitry, making the brain’s operation more precise and efficient.³

Researchers have carefully scrutinized the pace and severity of these changes and have learned that they continue into a person’s early 20s. Dr. Elizabeth Sowell, a member of the UCLA brain research team, has led studies of brain development from adolescence to adulthood. She and her colleagues found that the frontal lobe undergoes far more change during adolescence than at any other stage of life.⁴ It is also the last part of the brain to develop, which means that even as they become fully capable in other areas, adolescents cannot reason as well as adults: “[m]aturation, particularly in the frontal lobes, has been shown to correlate with measures of cognitive functioning.”⁵

Biology and Behavior

Jay Giedd, a researcher at the National Institute of Mental Health, explains that during adolescence the “part of the brain that is helping organization, planning and strategizing is not done being built yet.... It’s sort of unfair to expect [adolescents] to have adult levels of organizational skills or decision making before their brain is finished being built.”⁶

Dr. Deborah Yurgelun-Todd of Harvard Medical School has studied the relation between these new findings and teen behavior and concluded that adolescents often rely on emotional parts

of the brain, rather than the frontal lobe. She explains, “one of the things that teenagers seem to do is to respond more strongly with gut response than they do with evaluating the consequences of what they’re doing.”⁷

Also, appearances may be deceiving: “Just because they’re physically mature, they may not appreciate the consequences or weigh information the same way as adults do. So we may be mistaken if we think that [although] somebody looks physically mature, their brain may in fact not be mature.”⁸

This discovery gives us a new understanding into juvenile delinquency. The frontal lobe is “involved in behavioral facets germane to many aspects of criminal culpability,”⁹ explains Dr. Ruben C. Gur, neuropsychologist and Director of the Brain Behavior Laboratory at the University of Pennsylvania. “Perhaps most relevant is the involvement of these brain regions in the control of aggression and other impulses.... If the neural substrates of these behaviors have not reached maturity before adulthood, it is unreasonable to expect the behaviors themselves to reflect mature thought processes.

“The evidence now is strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable.... Indeed, age 21 or 22 would be closer to the ‘biological’ age of maturity.”¹⁰

Other Changes in the Body

In addition to the profound physical changes of the brain, adolescents also undergo dramatic hormonal and emotional changes. One of the hormones which has the most dramatic effect on the body is testosterone. Testosterone, which is closely associated with aggression, increases tenfold in adolescent boys.¹¹

“Just because they’re physically mature, they may not appreciate the consequences or weigh information the same way as adults do. So, [although] somebody looks physically mature, their brain may in fact not be mature.”

Deborah Yurgelun-Todd, PhD

Brain Imaging Laboratory,

McClean Hospital

Harvard University Medical School

Emotionally, an adolescent “is really both part child and part adult,”¹² explains Melvin Lewis, an expert in child psychiatry and pediatrics at Yale University School of Medicine. Normal development at this time includes self-searching, during which the adolescent tries to grow out of his or her childlike self. This change is complicated by the conflict between an adolescent’s new sense of adult identity and remaining juvenile insecurities.

The behaviors associated with this process include self-absorption, a need for privacy, mood swings, unique dress, and escapism, such as video games, music, and talking on the phone, as well as riskier behaviors, such as drug use or sexual activity.¹³

Childhood Abuse and Violence

In addition to this context of change and volatility, research shows that abusive childhood experiences can trigger violent behavior. The American Academy of Pediatrics has identified several risk factors that can spark violence in adolescents, including being witness to domestic violence or substance abuse within the family, being poorly or inappropriately supervised, and being the victim of physical or sexual assault.¹⁴

Researcher Phyllis L. Crocker of Cleveland-Marshall College of Law has written that "the nexus between poverty, childhood abuse and neglect, social and emotional dysfunction, alcohol and drug abuse and crime is so tight in the lives of many capital defendants as to form a kind of social historical profile."¹⁵

"The evidence now is strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable...."

Ruben Gur, MD, PhD
Director, University of
Pennsylvania Medical Center

Dr. Chris Mallett, Public Policy Director at Bellefaire Jewish Children's Bureau in Ohio, recently completed the most comprehensive study of traumatic experiences in the lives of death row juvenile offenders to date.¹⁶ He found that:

- 74% experienced family dysfunction¹⁷
- 60% were victims of abuse and/or neglect¹⁸
- 43% had a diagnosed psychiatric disorder¹⁹
- 38% suffered from substance addictions²⁰
- 38% lived in poverty²¹

More than 30% of death row juvenile offenders had experienced six or more distinct areas of childhood trauma with an overall average of four such experiences per offender. Most children and adolescents do not face even one of these defined areas of difficulty.²² Mallett also found that such mitigating evidence was presented to juries in fewer than half of the offenders' trials.²³

Mallett's research confirmed findings in previous studies. In 1992, researchers found that two-thirds of all juveniles sentenced to death had backgrounds of abuse, psychological disorders, low IQ, indigence, and/or substance abuse.²⁴



Dr. Jay Giedd of the National Institute of Mental Health. Image courtesy of PBS Frontline report *Inside the Teenage Brain*.

In 1987, an investigation into 14 juveniles on death row²⁵ (40% of the total at the time) revealed that nine had major neuropsychological disorders²⁶ and seven had psychotic disorders since early childhood.²⁷ All but two had IQ scores under 90.²⁸ Only three had average reading abilities, and another three had learned to read only after arriving on death row.²⁹ Twelve reported having been physically or sexually abused, including five who were sodomized by relatives.³⁰

Delinquency Link

The turmoil often associated with adolescence can result in poor decisions and desperate behaviors. For example, studies have found that 20 to 30% of high school students consider suicide. Suicide is the third-leading cause of death among teenagers, occurring once every two hours, or over 4,000 times a year, according to the U.S. Surgeon General.³¹ Approximately 30% of youths reported using an illicit drug at least once during their lifetime, and 22.2% reported using an illicit drug within the past year.³²

Conclusion

New discoveries provide scientific confirmation that the teen years are a time of significant transition. They shed light on the mysteries of adolescence and demonstrate that adolescents have significant neurological deficiencies that result in stark limitations of judgment. Research suggests that when compounded with risk factors (neglect, abuse, poverty, etc.), these limitations can set the psychological stage for violence.

These discoveries support the assertion that adolescents are less morally culpable for their actions than competent adults and are more capable of change and rehabilitation. The ultimate punishment for minors is contrary to the idea of fairness in our justice system, which accords the greatest punishments to the most blameworthy.

This fresh understanding of adolescence does not excuse juvenile offenders from punishment for violent crime, but it clearly lessens their culpability. This concept is not new; it is why we refer to those under 18 as "minors" and "juveniles"—because, in so many respects, they are *less than adult*.

American Bar Association Juvenile Justice Center

Notes

- ¹ For an excellent overview, see Elkhonon Goldberg, *The Executive Brain: Frontal Lobes and the Civilized Mind*, Oxford University Press (2001).
- ² Sowell, Elizabeth R, Paul M. Thompson, Colin J. Holems, Terry L. Jernigan and Arthur W. Toga. *In vivo evidence for post-adolescent brain maturation in frontal and striatal regions*. 2 *Nature Neuroscience* 10 (1999), also Paus, Tomas, Jay Giedd, et. al. *Structural maturation of neural pathways in children and adolescents: in vivo study*. *Science*, 283 (1999).
- ³ *Id.*
- ⁴ *Id.*
- ⁵ Sowell, Elizabeth R, Paul M. Thompson, Kevin D. Tessner and Arthur W. Toga. *Mapping continued brain growth and gray matter density reduction in dorsal frontal cortex: inverse relationships during postadolescent brain maturation*, 21 *Journal of Neuroscience* 22 (2001), at 8819, also Reiss, A.L., et. al., *Brain development, gender and IQ in children, a volumetric imaging study*. *Brain*, 119 (1996).
- ⁶ PBS Frontline, *Inside the Teen Brain*. See *Interview with Jay Giedd*, online at www.pbs.org/wgbh/pages/frontline/shows/teenbrain/.
- ⁷ *Id.*, at *Interview with Deborah Yurgelun-Todd*.
- ⁸ *Id.*
- ⁹ Gur, Ruben C. Declaration of Ruben C. Gur., PhD, *Patterson v. Texas*. Petition for Writ of Certiorari to US Supreme Court, J. Gary Hart, Counsel. (Online at: www.abanet.org/crimjust/juvjus/patterson.html)
- ¹⁰ *Id.*
- ¹¹ See Adams, Gerald R., Raymond Montemayor, and Thomas P. Gullota, eds. *Psychosocial Development during Adolescence*. Thousand Oaks, CA, Sage Publications (1996).
- ¹² Lewis, Melvin. *Child and Adolescent Psychiatry: A comprehensive textbook*, Lippincott Williams and Wilkins (2002).
- ¹³ See *id.*, and Cobb, Nancy J. *Adolescence: Continuity, Change and Diversity*. Mayfield Publishing, CA (1998).
- ¹⁴ American Society of Pediatrics, *Policy Statement*, 1 *Pediatrics*, 103 (1999).
- ¹⁵ Phyllis L. Crocker. *Childhood Abuse and Adult Murder: Implications for the Death Penalty*, 77 *NC L. Rev.* 1143 (1999).
- ¹⁶ Mallett, Chris. *Socio-Historical Analysis of Juvenile Offenders on Death Row*, 3 *Juv. Corr. Mental Health Report* 65 (2003).
- ¹⁷ *Id.*, at 77.
- ¹⁸ *Id.*, at 78.
- ¹⁹ *Id.*, at 77.
- ²⁰ *Id.*, at 78.
- ²¹ *Id.*
- ²² *Id.*
- ²³ *Id.*
- ²⁴ Robinson, DA and Stephens, OH; *Patterns of mitigating factors in juvenile death penalty cases*, 3 *Criminal Law Bulletin* 28 (1992).
- ²⁵ Lewis, DO, Pincus, Bard, Richardson, Prichep, Feldman, Yeager. *Neuropsychiatric, psychoeducational, and family characteristics of 14 juveniles condemned to death in the United States*, 5 *Am. J. of Psychiatry* 145 (1988).
- ²⁶ *Id.*
- ²⁷ *Id.*
- ²⁸ *Id.*
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ Office of the U.S. Surgeon General, *At a Glance, Suicide Among the Young*: Online at www.surgeongeneral.gov/library/calltoaction/fact3.htm
- ³² White House Office of National Drug Control Policy, *Juveniles and Drugs*, at www.whitehousedrugpolicy.gov/drugfact/juveniles/index.html

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Defending Liberty
Pursuing Justice

PHR



Physicians for
Human Rights

Adolescent Brain Development *A Critical Factor in Juvenile Justice Reform*

Kids are not adults—and shouldn't be treated as such. Yet each year, nearly 250,000 youth are prosecuted, sentenced and incarcerated as adults. Recent advances in neuroscientific research, however, have confirmed that young people's brains are not fully developed until they reach their early twenties. As a result, children lack the capacity for adult level reasoning or a full realization of the consequences of their actions. This emerging research establishes a medical basis for applying a different standard of culpability to children than to adults.

The adolescent mind works differently than ours... Their brains are physiologically underdeveloped in the areas that control impulses, foresee consequences and temper emotions... This insight emerges from sophisticated and noninvasive brain imaging techniques.

The American Medical Association,
Amicus Brief to the Supreme Court,
Roper v. Simmons

The Developing Brain

Advances in magnetic resonance imaging (MRIs) have made it possible to track the growth and development of the brain. These images reveal that during adolescence, behavior is highly influenced by the limbic system and amygdala, regions of the brain associated with impulse and aggression.

As the frontal lobe matures in the early 20s, cognitive functions shift to the prefrontal cortex, often termed the "CEO" of the brain. The prefrontal cortex is the center for advanced cognition, including imagination, abstract thought, judgment of consequences, planning, and controlling impulses.

Though adolescents are physically strong and more resilient than other age groups, late development of the prefrontal cortex is a factor in their relatively high overall morbidity rates. It is also a contributing factor to delinquent behavior.

Trauma and Brain Development

While adolescents' judgment is dubious in general, brain development can be further impaired by exposure to trauma, violence and abuse—all too prevalent among youth in the justice system. One of the primary areas of the brain affected by psychological trauma is the very prefrontal cortex that is essential in moderating impulses and behavior.

Are Youth *Capable* of Making Decisions?

Yes. It is important to note that generally adolescents over the age of 15 can be as capable as adults in focused decision-making situations (*cold cognition*.) However, the impulsive, short-sighted judgment associated with delinquency is influenced by the combination of cognitive and psychosocial factors (*hot cognition*.) When children find themselves in emotionally-charged situations, the parts of the brain that regulate emotion, rather than reasoning, are more likely to be engaged.

Supreme Court Abolishes Juvenile Death Penalty; Brain Development Cited

In an historic decision on March 1, 2005, the United States Supreme Court ruled in *Roper v. Simmons*, abolishing the death penalty for crimes committed by adolescents under the age of eighteen, thus distinguishing between adolescence and adulthood.

In the majority opinion, Justice Kennedy referred to recent research, stating that juveniles under eighteen have an "underdeveloped sense of responsibility...result[ing] in impetuous and ill-considered actions and decisions...are more susceptible to negative influences and peer pressure...[their] character is not as well formed as that of an adult."

Adolescent Brain Development

Health Professionals Can Promote Reform

As important as it is, the Supreme Court ruling doesn't go far enough to ensure that children are not prosecuted as adults—a dangerous practice that ignores child development and poses serious health risks. Health professionals can apply scientific findings regarding adolescent development to support advocacy campaigns on policy reform issues:

Raise the Age of Jurisdiction: In several states, 16-and/or 17-years old are considered adults for the purposes of criminal prosecution—for any crime.

Limit Youth Transfer to Adult System: Most states have mandatory or discretionary transfer policies that allow judges and prosecutors to waive youth to the adult system for certain crimes, including for some non-violent offenses.

Support Clemency and Reduced Sentences: Children as young as 13 can be sentenced to life imprisonment without the possibility of parole. Worldwide, there are only 13 individuals sentenced to life for crimes committed as juveniles. In the United States alone, there are 2,200.

Increase Developmentally-Appropriate Services: Programs and services can use research to evaluate and enhance developmentally-appropriate resources, particularly those that address the unique physical and mental health needs of youth.

Prisons are likely to interfere with growth and development and encourage the very behavior we want to extinguish.

Dr. Steven Berkowitz, Yale School of Medicine Child Study Center

Appropriate Intervention Can Work

Dr. Steven Berkowitz, a child and adolescent psychiatrist from Yale School of Medicine Child Study Center, emphasized adolescent development while speaking against Connecticut's harsh policy to try all 16- and 17-year olds as adults.

"Because adolescent brains are not yet mature, physiological changes can actually occur in response to the external environment. Compare human development to building construction—think of our genes as the framework and experiences as the boards, insulation and façade. Clearly both are essential to a safe structure; both will affect the outcome.

While these influences exist to some extent throughout a person's life, they are most salient in one's younger years. Positive environmental influences, such as close supervision, support, training and positive role models, are likely to have a more profound and positive effect on youth than adults. The opposite is also true. Harsh environments such as adult prisons do not support adolescent development."

Health Professionals, YOU Can Make a Difference!

Health professionals can speak with authority on the physical, mental and emotional health of children and can advocate for developmentally-appropriate services that meet youths' needs. Take action to support the health and human rights of youth in the justice system:

- Sign up to receive action alerts from PHR
- Arrange Grand Rounds on health issues of incarcerated youth
- Call legislators to support scientific and humane reform
- Write letters to the Editor and Op-Eds that highlight these issues
- Contact your local juvenile court or advocacy group to volunteer
- Monitor local detention facilities to learn first-hand about conditions
- Join PHR and support the Health and Justice for Youth Campaign

Physicians for Human Rights

2 Arrow Street, Suite 301, Cambridge, MA 02138

617-301-4200 www.physiciansforhumanrights.org

Complete references available on website

Health & Justice for Youth Fact Sheets

- Health & Human Rights
- Youth in the Adult Criminal System
- Adolescent Brain Development
- Mental Health Needs of Youth
- Youth of Color in the Justice System
- Girls in the Justice System



Adolescent Brain Development

This fact sheet was developed using the following sources:

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ECONOMIST

Crime, interrupted

Joel Budd LOS ANGELES

Treating violent crime as a disease

2009 IN BRIEF

To the annoyance of airlines and their foreign passengers, foreigners are to be fingerprinted before they leave American soil.

Crime will rise slightly in 2009, thanks largely to America's wobbly economy. Higher unemployment will drive more people to seek an illegitimate income, and budget shortfalls will force cities and counties to cut back on police officers, or at least fail to hire enough new ones to cope with their growing populations. The search will be on for a cheaper, smarter crime-fighting method—and one will be found.

For the past 15 years a single model of policing, developed in a single city, has dominated thinking about law and order in America. In the early 1990s New York hired thousands of extra police officers and told them to crack down on petty offenders in high-crime areas. Local commanders were held accountable for recorded crimes in their territory, which were tracked by means of a simple spreadsheet programme known as Compstat. The results were extraordinary. Murders fell from more than 2,200 in 1990 to fewer than 500 in 2007.

New York's "zero tolerance" methods seemed simple, and have been widely copied. Yet no other city in America or anywhere else has achieved quite such good results. This may be because most cities are poorer and less densely populated than New York, and so find it harder to flood the streets with cops. And New York had

is almost the exact opposite of zero tolerance. Rather than cracking down on petty offenders such as turnstile-jumpers and squeegee men, the authorities will focus on those who are most likely to kill or be killed. Some may be drug dealers recently released from prison. Others may be the associates of people recently wounded by gunfire. What makes the approach particularly novel is that it depends on local people. Rather than insisting on zero tolerance from the police, it tries to change what the residents of crime-infested areas will tolerate.

The approach that will come to prominence in 2009 is almost the exact opposite of zero tolerance

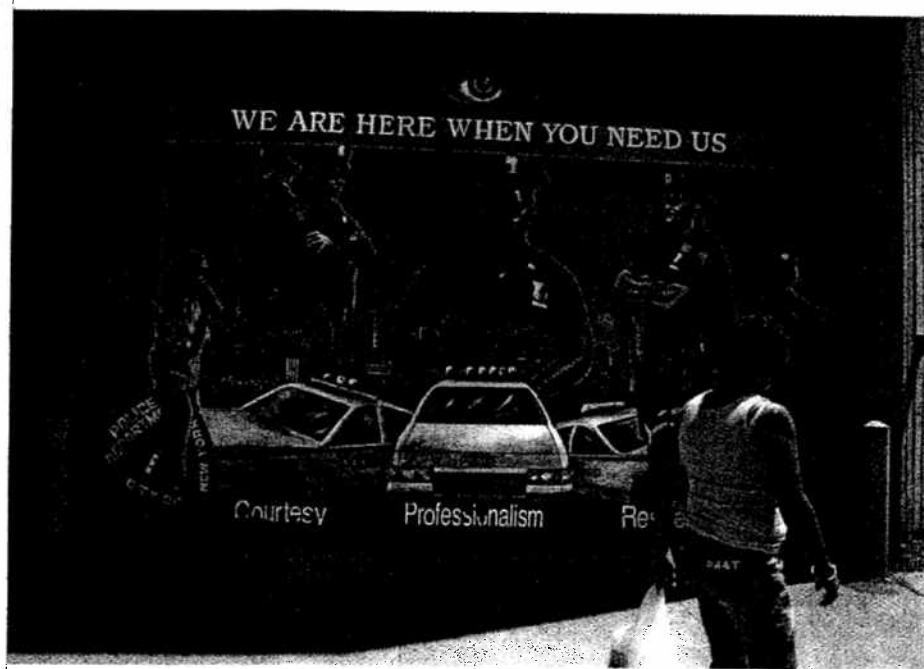
The new method has been quietly honed for almost a decade in Chicago, where it is known as Operation Ceasefire. It has two main tools. The more conventional one is a team of outreach workers who try to mobilise communities to oppose violence, often in partnership with local clergy. Then, at night, "violence interrupters"

hit the streets to sniff out trouble. Often former gang members and graduates of the prison system, the interrupters have a hard-nosed approach to law and order. They may, for example, encourage an aggrieved man to consider beating someone instead of shooting him, or try to convince rival drug-dealers that a turf war would be bad for business, as it would attract the police.

In May 2008 Operation Ceasefire was evaluated in a report for the Justice Department. The results were encouraging: in five out of seven areas examined, shootings dropped sharply. In four of these areas the decline was much steeper than in comparable parts of the city where Operation Ceasefire was not in place. But even these results do not explain why so many police forces are looking to Chicago for inspiration. The approach seems to offer a solution to what has become an intractable problem in inner cities from Los Angeles to London. Young people seem to be killing for inane reasons, such as somebody looking at their girlfriend the wrong way. And they appear to be unafraid of prison.

Operation Ceasefire's chief architect is Wesley Skogan. An epidemiologist, he likens shootings to a health crisis and insists that they can be tackled in a similar way to unsafe sex or needle-sharing. Zero tolerance's slogan was "take care of the small stuff and the big stuff will take care of itself". Mr Skogan's slogan is even snappier: "violent crime is a disease".

The approach may not travel perfectly. Chicago has relatively well-organised gangs and a strong tradition of community mobilisation. What has worked splendidly there may not work as well in, say, Phoenix. We will soon find out, because Operation Ceasefire is swiftly spreading. Baltimore, Newark and Kansas City have projects inspired by it. A further ten or so cities are in the planning stages. In 2009 one of the cities to roll out a trial programme will be New York. ■



Try a dose of the new medicine

two big advantages in the early 1990s: its police chief, William Bratton, who now manages the cops of Los Angeles, and its mayor, Rudolph Giuliani, who was last seen running for the American presidency. Both men had a superb feel for police culture and knew how to motivate officers through a combination of praise and fear.

The approach that will come to prominence in 2009

Joel Budd: West Coast correspondent, *The Economist*

**Fwd: Testimony for Juvenile Hearing - Wednesday May 6, 2009**

Monday, May 4, 2009 9:25 PM

From: "wu-la@comcast.net" <wu-la@comcast.net>**To:** "dankovich, james" <jdankochiro@yahoo.com>

Jim,

This is what I submitted for testimony

----- Forwarded Message -----

From: wu-la@comcast.net

To: mabdur@house.mi.gov

Sent: Monday, May 4, 2009 12:52:59 PM GMT -05:00 US/Canada Eastern

Subject: Fwd: Testimony for Juvenile Hearing - Wednesday May 6, 2009

I'm not able to attend due to my work schedule. Please submit this on my behalf. Thank you!

Felecia Tyson

May 4, 2009

"Children are the world's most valuable resource and its best hope for the future"*- John F. Kennedy*

When we sentence our children to life in prison without the possibility of parole, are we merely throwing away some of our most valuable resources?

It is estimated that the cost to house a healthy prisoner in the state of Michigan is around \$35,000.00 a year. (This figure greatly increases with age, inflation, and high medical cost). In 2008 Michigan spent well over \$11,410,000.00 to house men and women who were convicted of life without the possibility of parole as juveniles. I understand that no dollar amount can bring back the victims but it can offer a second chance to those who are truly remorseful.

The current juvenile bills were introduced to eradicate the practice of sentencing our children to die in prison. However, they are by no means a "get out of jail free card". Everyone involved with this effort fully understands the seriousness of the offenses that each of the juveniles was convicted of. Each guilty person deserves to be punished and in most situations punished severely for their part in the crime. However, I do not believe that children should be sentenced to life in prison without at least the possibility of a second look through a parole hearing.

There is documented evidence that children have the capacity to change. You must ask yourself are you the same person you were when you were 15, 16, or 17 years old? I can honestly say that I'm not,

and many of the men and women who were sentenced at the age of 15, 16, and 17 are not the same either. Many of the juveniles sentenced to life have served anywhere from 15 years to 60 years for a crime they committed when they were teenagers. I believe the oldest living juvenile sentenced to life without parole in Michigan was 16; He is now 78 years old.

In 2005, the Supreme Court found that it to be cruel and unusual punishment to execute a juvenile under age 18. In my opinion, when the State of Michigan sentences a juvenile to life without the possibility of parole, they are sentencing them to death. Michigan is merely sentencing juveniles to a delayed form of execution. The State of Michigan houses more children convicted of life without the possibility of parole than all other countries in the world combined.

As a concerned citizen, I am troubled by the fact that we as a nation\state lock troubled children away for life without a chance for parole, rehabilitation, or any opportunity to make amends for their crime(s). It is important for me to believe that when I vote for individuals to represent me in matters of law and order, that representation is carried out not only with stringent punishment, but also supported by morale character. I totally agree that we must punish however, we must also support the principle that most children can be rehabilitated.

The passage of these bills would not only save Michigan taxpayers money but it would also provide each juvenile at some point the opportunity to prove to the parole board that many of the once juveniles have changed.

Michigan must no longer be noted for its harsh punishment of its future citizen! We must take the initiative and lead the nation in its effort to rehabilitate troubled children, even after they have committed criminal acts. Therefore, I prayerfully request that you vote in favor of House Bills 4518, 4594, 4595, and 4596.

Thank you for considering my views on this matter!

Sincerely,

Felecia Tyson
248-396-4940
Oakland County Resident

December 9, 2008

An Open Letter to the People of Michigan:

We strongly urge the governor and Michigan Legislature to quickly and comprehensively reform the Michigan prison system and corrections policies.

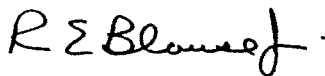
The aim is long-term, sustainable reforms and cost savings in the hundreds of millions of dollars per year.

At a time when Michigan is in serious recession and facing a deep state budget crisis, the \$2 billion budget of the Michigan Department of Corrections has grown, and without reform, will continue to grow at a pace that crowds out strategic priorities for the state's future.

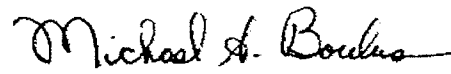
Studies have suggested Michigan's prison costs and incarceration policies are considerably more expensive than those of other states. Many potential reform ideas are on the table. The specific mix of reforms and efficiencies must be decided in the Capitol very soon. The worst choice is no action.

We will gauge progress and hold elected leaders accountable for action and progress on this very difficult and important issue.

Sincerely,



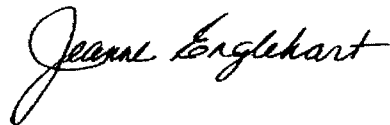
Dick Blouse
President & CEO
Detroit Regional Chamber of Commerce



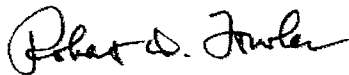
Michael Boulus
Executive Director
Presidents Council,
State Universities of Michigan



Kyle Caldwell
President & CEO
Michigan Nonprofit Association



Jeanne Englehart
President & CEO
Grand Rapids Area Chamber of Commerce

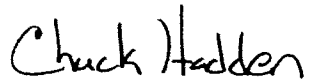


Rob Fowler
CEO
Small Business Association of Michigan



Dan Gilmartin
Executive Director & CEO
Michigan Municipal League

"open letter," continued...



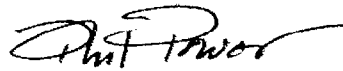
Chuck Hadden
President & CEO
Michigan Manufacturers Association



Michael Jandernoa
Private Citizen
Grand Rapids



Bill Martin
CEO
Michigan Association of Realtors



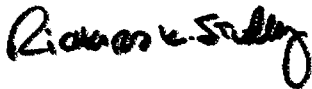
Phil Power
President
The Center for Michigan



Doug Rothwell
President
Detroit Renaissance



Ken Sikkema
Senior Policy Fellow
Public Sector Consultants



Rich Studley
President & CEO
Michigan Chamber of Commerce



S. Martin Taylor
Private Citizen
Grosse Pointe

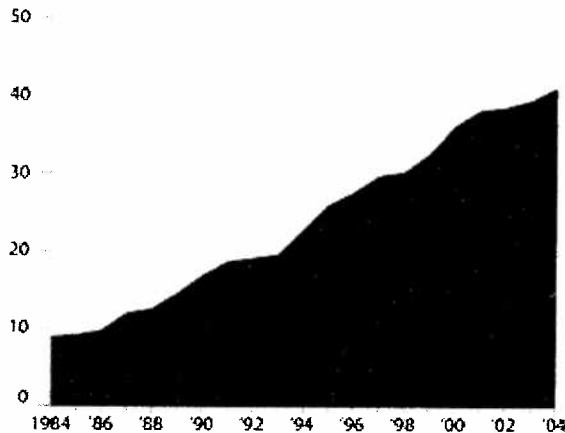
Justice Reinvestment

JUSTICE★CENTER
THE COUNCIL OF STATE GOVERNMENTS

Facts and Trends

State Spending on Corrections by Year

BILLIONS OF DOLLARS



Data Source: National Association of State Budget Officers,
State Expenditures Report, 1985–2004

State spending on corrections has risen faster over 20 years than spending on nearly any other state budget item – increasing from \$10 billion to \$45 billion a year.¹

Despite mounting expenditures, recidivism rates remain high and by some measures have actually risen. These failure rates are a key reason prison populations continue to swell nationally; the fastest growing category of admissions to prison are people already under some form of community-based supervision (many of whom were recently released from jail or prison). Any real effort to contain spending on corrections must have as its centerpiece a plan to manage the growth of the prison population.

The nation's prison population is projected to continue growing over the next five years by an additional 13 percent.²

According to *"Public Safety, Public Spending: Forecasting America's Prison Population 2007–2017"*, state and federal prison populations are expected to add approximately 192,000 persons at a cost of \$27.5 billion between 2007 and 2011.

Elected officials concerned about crime routinely refer to the record numbers of people returning to the community from prison or jail: in 2004 alone, more than 670,000 people were released from prisons, and an estimated 9 million were released from jails.³

Of those released from prison, half are returned within three years. Even more are rearrested.⁴ To increase public safety, policymakers must improve the success rates for people released from prisons and jails.

In every state there are a handful of "high-stakes" communities to which most people released from prisons and jails return; these are also the communities where taxpayer-funded programs are disproportionately focused.

State and community agencies often provide costly uncoordinated services to the same neighborhoods, and to the same families, without successful outcomes. To improve results and accountability, policymakers must identify which distinct programs overlap in particular neighborhoods, integrate these efforts, and then employ place-based strategies to increase the capacity for receiving people returning from prison and for engaging individuals at risk of becoming involved in crime.

National Association of State Budget Officers, State Expenditure Report 2006 (Washington, D.C.: National Association of State Budget Officers, 2007). National Association of State Budget Officers, State Expenditure Report 1987 (Washington, D.C.: National Association of State Budget Officers, 1987). From 1991 to 2001, state spending on corrections grew faster than any other state budget item except Medicaid expenditures, according to the National Conference of State Legislatures, "State Spending in the 1990s," report available at <http://www.ncsl.org/programs/fiscal/stspendgos.htm>.

Public Safety Performance Project, Public Safety, Public Spending: Forecasting America's Prison Population 2007-2011, (Washington, D.C.: Public Safety Performance Project, The Pew Charitable Trusts, February 2007).

The number of people released from prisons has been steadily increasing – from about 600,000 in 2000 to more than 670,000 in 2004. See P. M. Harrison and A. J. Beck, Prison and Jail Inmates at Midyear 2005, U.S. Department of Justice, Bureau of Justice Statistics, NCJ213133 (Washington, D.C.: U.S. Government Printing Office, 2006). The jail numbers (2004) come from A. J. Beck, "The Importance of Successful Reentry to Jail Population Growth," presented at the Jail Reentry Roundtable of the Urban Institute, Washington, D.C., June 27, 2006.

Two out of three people released from prison are rearrested within three years. See P. A. Langan and D. J. Levin, Recidivism of Prisoners Released in 1994, U.S. Department of Justice, Bureau of Justice Statistics, NCJ193427 (Washington, D.C.: U.S. Government Printing Office, 2002).

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2009: The year of the Michigan citizen ▶

Mobilizing on prison reforms

By John Bebow - January 9, 2009

Michigan's state budget is mired in more than \$1 billion in red ink and every interest group with any connection to Lansing is scrambling to hold on to their share of the state budget.

Reforms and wholesale changes are underway in the myriad ways Michigan's public sector does business, but much deeper reforms and changes inevitable under the extreme economic and budget pressure.

The first opportunity in this reinvention during hard times is the \$2 billion Michigan Department of Corrections. The prison system consumes one-fifth of the state's general fund budget. The issue, already at the forefront of state policy discussions, will escalate this month.


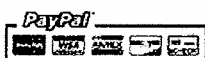
COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER REPORT: A much-anticipated "CSG" report ordered up by legislators and the Granholm Administration will be presented on January 22 in Lansing. CSG is charged with recommending ways for Michigan to: 1) reduce violent crime; 2) reduce recidivism among probationers and parolees; and 3) reduce Corrections spending. We're hearing mixed reports on what this report will recommend and how sweeping the recommendations will be.

INTEREST GROUP PRESSURE: In December, the Center for Michigan helped organize more than one dozen statewide interest groups who signed a letter urging swift action by the governor and legislature to cut hundreds of millions of dollars in prison spending, as reported by Crain's Detroit Business.). Booth Newspapers' political columnist Peter Luke cited the letter as "critical" to corrections reform (blog.mlive.com/peterluke/2009/01/pressure_to_build_for_2009_pri.html). And, the Grand Rapids Press cited the letter in an editorial this week pressing for corrections reforms. The Press wrote: "In a December letter, 14 state leaders urged action on the prison situation, including the heads of the Grand Rapids Area and Detroit Regional chambers of commerce, the Presidents Council-State Universities of Michigan, Michigan Manufacturers Association and Michigan Municipal League. They insisted inaction will allow costs to grow at a pace that 'crowds out strategic priorities for the state's future.' West Michigan legislators should recognize that as well and push for fundamental changes."

THE BUDGET CRISIS AND POSITIONS OF DEPARTMENT OF CORRECTIONS

LEADERS AND LEGISLATORS: We've had communication from department leaders suggesting that a deal is near on parole reforms that will reduce prison population by tens of millions of dollars per year. Nothing's been sealed in the Legislature, though, and some legislators are frustrated that more could have been done in lame duck horse trading but was not.

OPERATIONS/FINANCIAL ISSUES: As we understand it, CSG's work stops well short of a full financial performance audit of the department. Partial audits of various DOC operations have uncovered millions of dollars of inefficiencies and problems in the past year, including questionable overtime, inefficient prisoner transportation, and room for better supply price negotiations. And, while it is unfair to use a broad brush to paint an entire prison system, there is troubling contrast between Michigan's above average prison guard pay and a Detroit Free Press investigation this week indicating the DOC is likely on the hook for millions of dollars in standing jury awards due to class action suits from female prisoners who've brought serious allegations of rapes and sexual assaults over many years.

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DEPARTMENT ISN'T STANDING STILL: While Corrections remains the ripest place for reforming the state budget, prison management has not been sitting on its hands. Current prison populations are at their lowest levels in several years, several facilities have been closed, and the rate of parolees and probationers going back to prison has dropped from 36 percent to 26 percent in recent years with the help of better substance abuse treatment and job training.

Prison reform is going to be on Michigan's front burner for a while.

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Teen who killed mother deserves treatment, not jail

Now that the elections are over, and the Democrats hold the majority in the state House, perhaps some of them can find the courage to take up the case of Christopher Dankovich.

Dankovich, 16, is in a youthful offender prison for murdering his mother, Diane Michele. He will remain there until he turns 21, when he will be incarcerated as an adult in a state penitentiary, thrown into a living hell instead of receiving the treatment for mental illness that he should receive.

Dankovich should not be in prison. He should be in a facility that treats the mentally ill, perhaps for the rest of his life.

He stabbed his mother 111 times in their Rochester Hills home in 2005. He stabbed her eyes out.

Clearly the heinous slaying was not the act of a rational mind. Yet Dankovich was sentenced to spend 25 to 37 years in prison, not a treatment facility.

At his trial, a doctor testified that Dankovich believed he had been selected by God to kill people who were harming children, including pornographers, abortionists and former presidential candidate John Kerry. He killed his mother, the doctor said, when she discovered his irrational plans and attempted to disrupt them.

Even in sentencing Dankovich, Oakland County Circuit Judge John J. McDonald said he did not see a reason for the homicide.

And with good reason: Dankovich's actions were the result of an irrational mind, one that desperately needs professional treatment, treatment he will not receive in prison.

Once he is thrown in with the general prison population, Dankovich will only be further victimized.

One way to judge a just society is how it cares for — or neglects — its members who suffer from mental illness. Dumping Christopher Dankovich into prison and throwing away the key may make for popular "law and order" stances when appealing to voters on crime issues, but it is unjust.

It will take political courage for a member of the House to take up this issue publicly in the face of the general populace's fear and anger over crime. But certainly among the 110 members of the House, there is at least one member who can summon the courage to do what is right in the case of Dankovich.

We call on our elected officials to find the courage to do what is right for Dankovich and others like him. Someone in Lansing needs to step forward and demand an examination not only of Dankovich's case, but of a system that allows our mentally ill to be thrown away in prison rather than treated.

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Dear Congressman,

I am writing you regarding privatization of prison services, especially prison food services. As a person currently incarcerated at the Thumb Correctional Facility in Lapeer, I have firsthand experience with the relatively low cost and many benefits of our current, non-privatized food system, and I believe that privatization would not only destroy educational and rehabilitative services, such as our food technology and horticulture trades classes, but in the long run would end up costing more of taxpayer money.

Take, for example, the Michigan Youth Correctional Facility in Baldwin that was shut down in October 2005. It was privately run, yet it ended up being one of the most expensive and dangerous prisons in Michigan. This experiment in privatization failed spectacularly.

Also, currently a portion of our food here at TCF is grown by horticulture students in the prison greenhouse for almost no cost. Our food service workers work for only about \$0.40 per hour, or about \$3.70 per day. Even if a private company were to get the food for a lesser price, there is no way that they could legally beat the working rates of the prison workers.

Lastly, the food technology program and kitchen work is probably one of the best jobs for inmates. It helps rehabilitation by teaching responsibility and by teaching

YAHOO! MAIL

Fwd: Change the juvenile lifer law

Sunday, May 3, 2009 5:37 PM

From: "wu-la@comcast.net" <wu-la@comcast.net>

To: undisclosed-recipients

Change the juvenile lifer law

Offer at least the hope of a second chance for a juvenile lifer

BY JEFF GERRITT • FREE PRESS COLUMNIST • May 3, 2009



PAUL LACHINE/Special to the Free Press

Speak out

A public hearing on second chance bills to repeal Michigan's juvenile lifer law -- HB 4518, 4594, 4595 and 4596 -- will take place on Wednesday, May 6, at 10:30 a.m. before the House Judiciary Committee at 521 House Office Building in Lansing. To voice an opinion, you can also contact your state representative or senator or Gov. Jennifer Granholm.

Contact information for state representatives can be found at house.michigan.gov. For state senators, go to senate.michigan.gov. Granholm can be contacted at www.michigan.gov/gov, or by calling 517-373-3400, or writing her at P.O. Box 30013, Lansing, MI 48909.

Corresponding bills in the state Senate -- SB 173, 174, 175 and 176 -- are before the Senate Judiciary Committee, chaired by state Sen. Wayne Kuipers, R-Holland. Kuipers can be contacted at senwkuipers@senate.michigan.gov; by phone at 517-373-6920, or by mail at P.O. Box 30036, Lansing, MI 48909.

To read "Second Chances" profiles of juvenile lifers by the American Civil Liberties Union of Michigan, go to www.aclumich.org/resources/publications#JLWOP

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Michigan's notorious juvenile lifer law has drawn fire from human rights groups nationwide, and rightly so. The law has forced judges to give kids as young as 14 -- an age when they cannot legally drive or buy a pack of cigarettes -- the maximum adult penalty, with no chance of parole.

This law must change, and a package of bills sponsored by state Sen. Liz Brater, D-Ann Arbor, and others in the state Senate and House offers the best hope yet of doing that. A public hearing is set before the House Judiciary Committee on May 6.

These bills are not soft on crime. They would not, by themselves, release a single juvenile lifer. They would only give them a chance at parole after they have served 10 years, and some have already served decades.

The United States, with more than 2,000 juvenile lifers, is alone in handing down mandatory life sentences to children, according to Human Rights Watch. Nearly 350 Michigan inmates are serving such sentences for first-degree murder -- the third-highest number among states. Many were convicted for aiding and abetting the crime, and some received harsher sentences than the actual killers got. For a third, the crime was their first offense. Two-thirds of Michigan's juvenile lifers are African American.

Expensive injustice

Michigan's juvenile lifer laws were enacted during the 1980s, when many draconian measures, including three-strike laws, were approved around the country. For years, bills to repeal the laws stalled in committee. But last year, the Democratic-controlled House approved them with some bipartisan support, giving backers real hope for this legislative session.

Fueling such hopes is a general rethinking of Michigan's criminal justice and corrections policies. Michigan faces a \$1.6-billion deficit next year, so politicians, including Gov. Jennifer Granholm, have moved to right-size Michigan prisons. Costing \$2 billion a year, the Michigan Department of Corrections eats up 20% of the state's general fund -- more than the state spends on higher education.

But saving money is not the only issue; there are moral, legal and constitutional problems with Michigan's juvenile lifer law. It contradicts science, legal tradition, public opinion and plain common sense.

Brain-imaging research shows -- big surprise -- that teenagers are more impulsive and unstable than adults, even without the abuse and neglect that many young offenders have faced. "Sentencing a child to life without parole is cruel and unusual punishment and should be considered unconstitutional," Brater told me, after leading the fight against Michigan's juvenile lifer law for the last six years. "Given the Supreme Court's ruling on the death penalty for minors, the logical legal inference is that the principle should apply to life without parole as well."

The case of Henry Hill Jr.

Henry Hill Jr., MDOC No. 169371, grew up in Saginaw and was too young to buy a beer when he was arrested for murder. Like many juvenile lifers, Hill took part in the crime but did not do the killing. Under Michigan law, aiding and abetting a first-degree murder carries the same penalty, and prosecutors argued that Hill planned the killing with his cousin, Larnell Johnson, who was then 18.

Johnson shot Anthony Thomas repeatedly during a fight at Wickes Park in the summer of 1980 (Johnson is also doing mandatory life). But witnesses, including an off-duty sheriff's deputy, said Hill was running from the scene when Johnson killed Thomas. Before Hill left, he fired six shots with a handgun, up into the air, trying to scare people away. None of Hill's bullets matched those found in the victim's body.

Hill's maturity level was far less than even his age would suggest. In a court-ordered evaluation, a psychologist called the 16-year-old mentally deficient, insecure and unable to tell right from wrong. The report states that Hill, who dropped out in the 11th grade, had the education level of a third-grader and the mental maturity of a 9-year-old. In no way should Hill have been judged by adult standards.

"I was dumb as a box of rocks," Hill, now 45, told me at Thumb Correctional Facility in Lapeer. "I couldn't even read. I was 20 before I really realized the significance of what I had done."

Hill has served nearly 30 years in prison -- two-thirds of his life. The 16-year-old who had been labeled mentally deficient is now bright, articulate and well read. He earned a GED in prison and took college courses. He is writing a book about his life.

A psychological evaluation completed in February by the Department of Corrections called Hill cooperative, polite, articulate and straightforward. It concluded that his thinking was logical, flexible and goal-oriented.

Hill applied for a commutation in September and, after getting interviewed by the Parole Board last month, hopes for freedom.

Although he didn't kill Thomas, Hill knows he played a part and deserved to be punished. "We were all friends at one time. It was a tragedy -- just senseless. He lost his life and we could have lost ours."

Locked out of a second chance

But when is enough, enough? Keeping him locked up serves neither justice nor the taxpayer. At the very least, he and other juvenile lifers deserve a chance at freedom.

I hope Hill gets his commutation, but the governor reserves such actions for special cases only. Hundreds more like Hill will never get the same opportunity. Changing state law to make juvenile lifers eligible for parole is the best way to correct this unjust and unforgiving system.

JEFF GERRITT is a Free Press editorial writer. Contact him at gerritt@freepress.com or 313-222-6585.

Materials from Past Hearings/Symposiums

- Joint Economic Committee Hearing, conducted by Senator Webb, "Mass Incarceration in the United States: At What Cost?" October 2007 »
- Joint Economic Committee Hearing, conducted by Senator Webb, "Illegal Drugs: Economic Impact, Societal Costs, and Policy Responses," June 2008 »
- George Mason University Symposium, hosted by Senator Webb and the GMU Administration of Justice Department, "Drugs in America: Trafficking, Policy and Sentencing," October 2008 »
- Senator Webb's Keynote Address to the Brookings Institution's Policy Roundtable on the Challenges to Prisoner Re-entry, December 2008 »

News Articles & Commentary

- New York Times Editorial: "Sen. Webb's Call for Prison Reform" »
- Washington Post: "Webb Sets His Sights On Prison Reform" »
- U.S. News & World Report: "James Webb Shows Leadership Regarding Prison Reform" »
- Roanoke Times Editorial: "The Criminal Justice System Needs Help" »
- Daily Press: "Alternative to Jail for Addicts Gains New Supporter" »
- The Virginian Pilot: "Senator Elevates Debate on Failed Drug, Prison Policies" »
- Las Vegas Sun Editorial: "Voice for Broken Prisons" »
- Washington Post Op-Ed: "Two Separate Societies: »

of a commission. We spent 45 minutes batting ideas back and forth, exploring what governments are trying in some parts of the United States or in other parts of the world. Senator Webb had invited me to testify before the Joint Economic Committee in October, 2007, about the costs of mass incarceration. The Senator is as much a policy wonk as I am, so it was an animated conversation. I was very impressed with his deep knowledge of, and an insatiable curiosity about, what may work to improve our system. This is not a headline-grabbing, show-horse of a legislator. He is definitely a workhorse, and we are fortunate to have such a thoughtful and hardworking sponsor for the bill.

The Senator's interest in criminal law reform began right after he departed from the Marine Corps. On assignment from PARADE Magazine, he was allowed inside Japanese prisons to see what they were doing to suppress crime and punish offenders. He wrote about his observations and mentioned his vivid impressions often as we contrasted the American penal system with the Japanese system. He picked up on my frequent mention of the importance of including victims in the criminal justice process. He told me that the Japanese require reparations, and we discussed why that is good for both the offender and the victim.

Most of us who deal with the criminal justice system believe that it is clearly broken. That is not a knock on any of the dedicated people that are working within the system. Instead, it is a criticism of our policy makers, who have built a Rube Goldberg-like contraption of criminal laws and sentencing policies based on whim and anecdote. There is no coherent focus to our criminal code, and sentences bear little resemblance to the harm done by a crime. Seemingly trivial errors are punished with many years in prison, while horribly violent crimes often get less time.

I applaud Senator Webb for tackling this very important task. He needs your help to get the bill passed. Please write or call your Senators and Representative and ask them to co-sponsor S 714. In case you don't remember who your legislators are, you can use our [Legislative Action Center](#) to look them up and send them an email. However, a phone call from you would be even more effective. The Capitol switchboard is 202-224-3121.

Please share this information with your friends, co-workers, neighbors, and the folks at church. Everyone agrees that our criminal justice system doesn't work very well. This bill will give us a chance to make it work for us.

In His service,

HUMAN RIGHTS WATCH

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Senator Wayne Kuipers, Chair
Senate Committee on the Judiciary
P.O. Box 30036
Lansing, MI 48909-7536
Fax: (517) 373-2751

December 9, 2008

Dear Chairman Kuipers and Members of the Judiciary Committee:

Human Rights Watch urges Michigan's Senate Judiciary Committee to vote in favor of Senate Bills 6, 9, 28, and 40, which will abolish the sentence of life without parole for juvenile offenders in your state. We oppose life without parole for juveniles because it is cruel, inappropriate (particularly given recent scientific research), imposed disproportionately on black youth, and a violation of international law.

Human Rights Watch has been analyzing the issue of life without parole sentences for juveniles since 2004. Our most recent publication on this issue, released in 2008, *The Rest of Their Lives: 2008*¹ updated findings published in *The Rest of Their Lives: Life Without Parole for Child Offenders in the United States*² (a 2005 report on juveniles sentenced to life without parole throughout the United States).³ Based on our research, we urge the Committee to vote in favor of Bills 6, 9, 28, and 40 for three main reasons.

First, the decision to sentence a juvenile to life without the possibility of parole is a decision to sentence that young person to die in prison. There is no time off for good behavior, no opportunity to prove that he has become a different person, responded with remorse, and chosen a path of rehabilitation. Next to the death penalty, there is no harsher condemnation, no clearer judgment by our society that this is a life to be thrown away.

In *Roper v. Simmons*, 543 U.S. 551, 561 (2005), the US Supreme Court found that the differences between juveniles and adults render suspect any conclusion that a juvenile offender can be judged

¹ Please see <http://www.hrw.org/sites/default/files/reports/us1005execsum.pdf>.

² Please see <http://www.hrw.org/en/reports/2005/10/11/rest-their-lives>.

³ We have also published *Thrown Away*, <http://www.hrw.org/en/reports/2008/12/09/thrown-away> (a 2005 report on life without parole for juveniles in Colorado) and *When I Die They'll Send Me Home*, <http://www.hrw.org/en/reports/2008/01/13/when-i-die-they-ll-send-me-home> (a 2008 report on life without parole for juveniles in California).

beyond rehabilitation at such a young age. Neuroscience reveals that the process of cognitive brain development, including the formation of impulse control and decision-making skills, continues into early adulthood—well beyond age 18. The fact that juveniles are still developing their identity and ability to think and plan ahead means that even a heinous crime committed by a juvenile is not “evidence of an irretrievably depraved character.”⁴

Research by Human Rights Watch and others has revealed that often youth sentenced to life without parole were not the primary actors in the crime: they did not pull the trigger; they did not physically commit the crime. Nearly half of youth sentenced to life without parole surveyed in Michigan were sentenced for aiding and abetting or for an unplanned murder in the course of a felony.⁵ In 45 percent of California cases surveyed, youth sentenced to life without parole had not actually committed a murder and were convicted for their role in aiding and abetting or participating in a felony.⁶ These are all cases in which someone else was the primary actor. A significant number of these cases involved an attempted crime gone awry—a tragically botched robbery attempt, for example—rather than premeditated murder.

Moreover, Human Rights Watch estimates that 59 percent of the youth serving life without parole in the United States received this sentence for their very first offense—they had no juvenile or adult criminal record whatsoever prior to the offense that resulted in their life sentence. We also estimate that 26 percent of the youth serving the sentence of life without parole in the United States received it for aiding and abetting or felony murder.

Second, we urge you to vote in favor of Bills 6, 9, 28, and 40 because we are deeply concerned that racial discrimination enters into the determination of which youth receive life without parole sentences, and which youth enjoy the possibility of release. In Michigan, racial disparities in sentencing practices raise serious concerns: African-American youth are serving life without parole sentences at a rate that is ten times higher than that of Caucasian youth.⁷

Third, the US practice of sentencing youth to life without parole violates international law. International law prohibits life without parole sentences for those who commit their crimes before the age of 18, a prohibition that is universally observed outside of the United States. Oversight and enforcement bodies for two treaties to which the

⁴ Ibid. p. 570.

⁵ American Civil Liberties Union of Michigan, “Second Chances, Juveniles Serving Life without Parole in Michigan’s Prisons,” 2004, <http://www.aclumich.org/pubs/juvenilelifers.pdf> (accessed September 2, 2008), p. 4.

⁶ Human Rights Watch, *When I Die, They’ll Send Me Home: Youth Sentenced to Life without Parole in California*, January 2008, <http://www.hrw.org/reports/2008/us0108/>, p. 21.

⁷ Human Rights Watch, *The Rest of Their Lives: 2008*, May 2008, <http://www.hrw.org/sites/default/files/reports/us1005execsum.pdf>, p. 6.

United States is a party (the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination) have found the practice of sentencing juvenile offenders to life without parole to be a clear violation of US treaty obligations.

The United States is the world's worst human rights violator in terms of sentencing juvenile offenders to life without parole. There are currently 2,500 persons serving the sentence of juvenile life without parole in the United States; as of February 2008, to our knowledge, not a single youth is serving this sentence anywhere else in the rest of the world. Within the United States, Michigan has the third largest number of juveniles serving this extremely punitive sentence, falling just behind Louisiana and Pennsylvania.⁸

Juveniles can and do commit terrible crimes. When they do, they should be held accountable and face appropriate consequences. Children are different from adults, however, and the punishment imposed for their offenses should reflect their age and level of development. At a minimum, laws should preserve the opportunity for parole for juvenile offenders, and the ability to review whether someone sentenced to life in prison as a child has been rehabilitated.

For the foregoing reasons, Human Rights Watch urges Michigan to make its laws more just and eliminate the sentence of life without parole for children by passing Bills 6, 9, 28, and 40.

Thank you for your consideration, and please feel free to contact me if I can provide you with any further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alison Parker", followed by a horizontal line.

Alison Parker
Deputy Director, US Program

cc: Senators Cropsey, Sanborn, Patterson, Stamas, Clarke, and Prusi

⁸ Human Rights Watch, *The Rest of Their Lives*: 2008, May 2008,
<http://www.hrw.org/sites/default/files/reports/us1005execsum.pdf>, p. 3.



Fwd: U.S. Supreme Court to Hear Juvenile Life W/O Cases

Monday, May 4, 2009 9:36 PM

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To: undisclosed-recipients

U.S Supreme Court Justices to Hear Appeals of Lifers Sentenced as Teens



By Bill Mears
CNN Supreme Court Producer
Monday, May 4, 2009

WASHINGTON (CNN) -- The Supreme Court will decide whether it is cruel and unusual punishment for young criminal offenders to be sentenced to life in prison with parole.

The justices agreed without comment Monday to accept appeals from two Florida inmates convicted as teenagers of criminal offenses. Oral arguments will be heard in the fall.

One of the men is Joe Sullivan, 33, serving a life term without the possibility of parole in a Florida prison while confined to a wheelchair. He was sentenced for a rape committed when he was 13.

The man's lawyers say he is one of only two people his age in the world who was tried as an adult and sentenced to "die in prison" for a non-homicide.

The justices also accepted a case dealing with Terrance Graham, who was 17 when he took part in a violent home-invasion robbery while on parole for another felony.

Outside a death-penalty context, the high court has offered little recent guidance on how to treat the youngest of underage criminal defendants. The appellate record for rapists younger than 15 is almost nonexistent, legal experts say.

Child legal advocates say many states lack adequate resources to handle young inmates given long sentences, including a lack of proper jailhouse counseling. Few studies have

been conducted on the psychological effects of young defendants facing life in prison at such a young age, said the Equal Justice Institute, which is representing Sullivan's high court case.

"We have created a forgotten population with a lot of needs," said Bryan Stevenson, Sullivan's lawyer.

The crime happened in 1989, when, Sullivan admitted, he and two friends ransacked a home on Seabrook Street in West Pensacola. But he denied the prosecutor's claim that he returned with a knife and sexually assaulted the 72-year-old female homeowner. An older co-defendant claimed that Sullivan was the rapist.

After a daylong trial, Escambia County Circuit Judge Nicholas Geeker sentenced Sullivan to life without parole.

"I am going to try to send him away for as long as I can. He is beyond help," the judge said. "The juvenile system has been utterly incapable of doing anything with Mr. Sullivan."

Sullivan, who had a lengthy juvenile record, continues to deny that he committed the 2000 attack.

At the time, state prosecutor Larry Kaden -- who retired this year -- said, "It was a brutal crime, and he had an extensive record. This was a bad, bad crime."

The Florida attorney general's office told the high court that prosecutors should have the discretion they have long been given to decide how harshly young criminals should be prosecuted. Sexual battery remains a crime punishable by life imprisonment in Florida.

A study by the nonprofit Equal Justice Initiative found eight prisoners serving life terms for crimes committed at age 13, all in the United States. Among them is another Florida inmate, Ian Manuel, who was 13 when convicted of attempted murder and robbery in 1990.

The Justice Department reports that no 13-year-old has been given life without parole for a non-homicide in a decade. And although about a thousand people under 15 are arrested for rape every year, none has been given life without parole since Sullivan.

Only a handful of states -- including Alaska, Colorado, Kansas, New Mexico and Oregon -- prohibit sentencing minors to life without a chance for parole, according to the National Conference of State Legislatures. The Equal Justice Initiative says 19 states have laws allowing the possibility of life without parole for those younger than 14.

In 2005, the Supreme Court banned the death penalty for underage killers. The justices cited evolving "national standards" as a reason to ban such executions.

0ASullivan is in deteriorating health from multiple sclerosis and is confined to "close management" for dangerous or trouble-prone inmates, state corrections officials say.

His lawyers admit that he has had more than a 100 incidents of fighting and threatening inmates and guards, plus having contraband and weapons, but they say Sullivan is the victim of bullying by other prisoners and is mentally disabled.

"It's important for the criminal justice system to recognize that inmates like Joe [Sullivan] are going to change biologically, psychologically and emotionally as they grow up in prison," Stevenson said. "We should not assume it is a change for the worse."

The thrust of their argument before the high court is not that Sullivan is innocent or that he seeks his freedom now but that he deserves to someday make his case before the state parole board.

Source: <http://abolish-jlwop.blogspot.com/2009/05/us-supreme-court-justices-to-hear.html>

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Justice Fellowship: Rethinking Crime and Punishment

Thursday, April 2, 2009 4:04 PM

From: "Pat Nolan" <Prison_Fellowship@informz.net>

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4/2/2009

Dear friends,

Senator Jim Webb (D-VA), in Senate bill 714, has proposed the creation of a National Criminal Justice Commission to "review all areas of Federal and State criminal justice costs, practices, and policies." The bill is co-sponsored by Senator Arlen Specter (R-PA), who is a former prosecutor.

This top to bottom review of our criminal justice system is sorely needed. Senator Webb emphasized five reasons the legislation is critical:

- With 5% of the world's population, our country now houses 25% of the world's reported prisoners.
- Incarcerated drug offenders have soared 1200% since 1980.
- Four times as many mentally ill people are in prisons than in mental health hospitals.
- Approximately 1 million gang members reside in the U.S., many of them foreign-based; and Mexican cartels operate in 230+ communities across the country.
- Post-incarceration, re-entry programs are haphazard and often nonexistent, undermining public safety and making it extremely difficult for ex-offenders to become full, contributing members of society.

We spend \$68 billion per year on our prisons. That figure does not include the costs of law enforcement and courts. The Commission will examine if we are getting all the public safety we are paying for, and it will recommend ways to refocus prison and sentencing policies to reduce the incarceration rate while preserving public safety, conserving tax dollars, and maintaining societal fairness.

I met with Senator Webb early this year to discuss the concept

Pat Nolan, Vice President of Prison Fellowship.

For Pat Nolan's complete biography, please visit our web site. [more](#)

Materials & Resources

Read the legislation. »

Fact sheet on the legislation. »

Senator Webb's floor speech introducing the legislation. »

To watch Senator Webb's introduction of the legislation on the Senate floor, please click here »

PARADE Magazine cover story, "What's Wrong with our Prisons?" Senator Jim Webb, Sunday March 29, 2009 »

The scope of the problem: relevant charts and graphs. »

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Ritter boosts youth justice

In a move lauded by juvenile-justice advocates, the governor establishes a review panel that will include psychologists.

By Miles Moffett Denver Post Staff Writer

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Gov. Bill Ritter (Post file)

In the first initiative of its kind nationally, Gov. Bill Ritter has created an executive clemency board exclusively for youth offenders, providing a possible way out of adult prison for teens currently serving life-without-parole sentences.

The former Denver district attorney signed the executive order Tuesday, establishing a seven-

seat advisory board that will include members of his Cabinet, experts in juvenile-justice issues, two psychologists and a Denver judge, among others.

"It appeared to me to be the right process to put in place" to serve the interest of justice, Ritter said Wednesday. "There's a body of evidence that shows kids are very different than adults."

The panel evolved, Ritter

Richard Jewell

- Read the Post's series, "Teen Crime, Adult Time."

acknowledged, out of discussions among lawmakers, the district attorneys' lobbying council and the Pendulum Foundation youth-advocacy group. Its goal is to find a middle ground for giving juveniles a shot at relief. It could be up and running by the end of the year.

State Rep. Cheri Jahn, a Wheat Ridge Democrat, helped develop the concept with Ritter. She characterized the advisory board as a cease-fire of sorts between state prosecutors and lawmakers who decided to back off a potentially bitter battle to eradicate life-without-parole sentences for at least 45 current juvenile offenders.

In 2006, Jahn and then-state Rep. Lynn Hefley, R-Colorado Springs, got just such a state law

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passed and signed into law by then-Gov. Bill Owens. It barred such sentences for future offenders. But the state's district attorneys successfully fought off their effort to grant such relief to current convicts.

Jahn said the clemency board "is a big step, and the governor should be applauded for taking it," adding that juveniles' premature brain development warrants special attention. "It's important that we have juvenile experts involved. This is a governor who, unlike some DAs, doesn't just see everything as black and white."

Approach wins praise

Ritter said the move helps sidestep issues that could have proven divisive in the legislature.

"There was not nearly the appetite for doing things retroactively," Ritter said, referring to lifting life without parole across the board. "But there were people who still wanted to look at those offenders and try to resolve what they believe were some justice issues. This was a way to do it."

The board, to be chaired by Jeanne Smith, director of the state Division of Criminal Justice and former El Paso County DA, would function separately but similarly to the current clemency board advising the governor, who can pardon, commute or parole convicts.

Among the criteria boosting a juvenile offender's chance for relief: rehabilitative

potential, heroic acts and cases involving "sentencing disparities or inequities." A majority of its members must favor a recommendation before it is sent on to the governor for consideration, Ritter said.

Ritter's approach won praise Wednesday from national juvenile advocates.

"I don't know of any state that has retooled its clemency process for juveniles to recognize their rehabilitative potential," said Alison Parker, senior researcher on juvenile issues for New York-based Human Rights Watch. "This is an excellent way to approach the issue. Juveniles are different kinds of human beings with the capacity to grow and change."

Colorado prosecutors, among the few in the country with the discretion to send youths to prison, have done so in more than 1,200 cases since 1998, according to a Denver Post investigation. At least 45 youths are serving life sentences without a shot at parole.

Some killed abusive parents. Others were convicted of felony murder, a charge brought against them even though their actions did not directly cause a death or no proof existed that they intended to kill.

Such extraordinary circumstances, combined with modern scientific research showing juveniles' brains - especially regions that process ethical decisionmaking - are not fully developed, warrant more lenient legal treatment for youths, advocates believe.

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Dear Congressman,

I am writing you regarding privatization of prison services, especially prison food services. As a person currently incarcerated at the Thumb Correctional Facility in Tawas, I have firsthand experience with the relatively low cost and many benefits of our current, non-privatized food system, and I believe that privatization would not only destroy educational and rehabilitative services, such as our food technology and horticulture trades classes, but in the long run would end up costing more of taxpayers money.

Take, for example, the Michigan Youth Correctional Facility in Baldwin that was shut down in October 2005. It was privately run, yet it ended up being one of the most expensive and dangerous prisons in Michigan. This experiment in privatization failed spectacularly.

Also, currently a portion of our food here at TCF is grown by horticulture students in the prison greenhouse for almost no cost. Our food service workers work for only about \$0.40 per hour, or about \$3.70 per day. Even if a private company were to get the food for a lesser price, there is no way that they could legally beat the working rates of the prison workers.

Lastly, the food technology program and kitchen work is probably one of the best jobs for inmates. It helps rehabilitation by teaching responsibility and by teaching